

Meeting No. 2  
January 26, 2004  
Hamburg Town Board Meeting  
S-6100 South Park Avenue  
Hamburg, N.Y. 14075

Supervisor Hoak calls the meeting to order at 7:00 p.m.

Roll Call:	Patrick H. Hoak	Supervisor
	D. Mark Cavalcoli	Councilman
	Kathleen C. Hochul	Councilwoman
	Joan A. Kesner	Councilwoman
	Thomas Quatroche, Jr.	Councilman

Also Present:	Catherine Rybczynski	Town Clerk
	James Spute	Director of Finance
	Joseph Coggins	Police Chief
	Richard Boehm	Deputy Town Attorney
	Gerard Kapsiak	Town Engineer
	James Connolly	Highway Superintendent
	Martin Denecke	Director of Recreation
	Christopher Hull	Director of Community Development
	Tim Ellis	Traffic Safety Coordinator
	Robert Hutchison	Town Assessor
	Kurt Allen	Supervising Building Inspector
	Gerald Koenig	Planning Board Chairman

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

Supervisor Hoak announces that prior to the Public Hearing they will give out the Character Awards for the month of January, Thankfulness is the Trait and the recipients of the awards are in the audience. He turns the meeting over to Councilwoman Hochul.

Councilwoman Hochul comments that every two months they recognize individuals who demonstrated the character trait that has been indicated. The most recent being Thankfulness, which is having an attitude of appreciation for talents, rewards and opportunities afforded. There have been nominations of Town employees and people involved with Town Committees and she will mention their names to come up and be recognized and receive their proclamation. Kristen Griffen, from the D.A.R.E. Office works with volunteers, educational staff, students, agencies, and Town employees throughout the year. For example, Red Ribbon Week, D.A.R.E. classes, graduations, exhibits at the Fair, the D.A.R.E. skate in January and other events. She is always appreciative of and thankful for the talents of others. Tammy Franz from the Youth Department also works with volunteer boards, staff, various agencies, town employees and appreciates the talents of these individuals and is thankful for these talents as well. Tammy has had a major impact on our youth and guides students to appreciate themselves, their talents and opportunities. She works closely with peer helpers and peer listeners, she thanks Tammy for her work on behalf of the Town. Next is Marty Denecke, he is the head of the Recreation Department and shows appreciation for the talents of his staff, both full time and part time. He has great insights into their talents and places staff where their talents benefit a program and benefit the Town. George Lee, Deputy Mayor of Blasdel, is also a member of a number of committees including the Town Rejuvenation Project. He truly appreciates the help of everyone he works with, whether it is for his events in Blasdel such as National Night out, or making recommendations to help others find the best person for the task. George has an attitude of thankfulness and great appreciation for the talents of others and the Town is very thankful for George and all his contributions. She defers to the Supervisor to present the next award.

Supervisor Hoak announces that this is a very special award for him because he is very grateful that Shirley Anzalone is a part of his life, not just as his secretary but also as a friend. He sees how she operates and how thankful she is for the people in this Town Hall and in the community. At any given moment you don't know who is coming through the door or calling on the phone and she has the patience of Job and the kindness and a heart bigger than herself. Shirley is a very special individual and of all the awards and so many attributes and assets he could throw her way, he thinks thankfulness is very apropos and he thanks her for being part of his team.

Councilwoman Hochul asks that all the recipients come forward to receive their awards.

Councilwoman Hochul announces that for the next two months the character trait is Virtue. Virtue is doing what is right demonstrated in thought, voice, and action throughout your lifetime. They will be looking for nominees over the next two months for that trait and she thanks Rosemary McManus for all her help on this.

Supervisor Hoak comments that they will now start the public hearing.

7:00 p.m. Public Hearing for property located on Milestrip Road and to be known as "Proposed Retail Milestrip Road at I-90" to be rezoned from R-2 to C-2.

Catherine Rybczynski, Town Clerk, reads the following public notice as published in the Hamburg Sun and the Front Page:

**LEGAL NOTICE**  
**TOWN OF HAMBURG**

**PLEASE TAKE NOTICE** that there has been presented to the Town Board on December 8, 2003, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #9, 2003; said local law provides for the amendment of Local Law #10, 1986, Chapter 280-entitled Zoning, and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for property located on Milestrip Road and to be known as "Proposed Retail Milestrip Road at I-90". The property is to be rezoned from R-2 (Single Family Residence, Attached District) to C-2 (General Commercial District) described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot(s) 38 & 41, Township 10 Range 7 of the Holland Land Company's Survey bounded and described as follows:

BEGINNING at a point in the west line of the New York State Thruway (Erie Section) distant 92.11 feet south of the northeast corner of Sublot 15 of Map Cover No. 2275 filed in the Erie County Clerk's Office, as measured along east line of said Sublot 15; Thence westerly at an interior angle of 88°38'32" a distance of 162.92 feet to a point; Thence northwesterly at an interior angle of 158°22'48" a distance of 150.89 feet to a point in the east line of Wolf Avenue (unimproved) as shown on Map Cover No. 2275 and Map Cover No. 1471; thence northerly along said east line of Wolf Avenue at an interior angle of 110°50'40" a distance of 55.91 feet to a point; Thence westerly at an exterior angle of 89°57'39" a distance of 105.43 feet to a point; Thence northwesterly at an interior angle of 144°00'46" a distance of 210.95 feet to a point; Thence northwesterly at an interior angle of 214°25'14" a distance of 75.73 feet to a point of curvature; Thence northwesterly along a curve to the right an arc length of 237.55 feet to a point in the south line of Milestrip Road (width varies); Thence easterly along said south line of Milestrip Road a distance of 111.67 feet to a point; Thence northeasterly along the south line of Milestrip Road at an interior angle of 188°14'01" a distance of 99.97 feet to a point; thence northeasterly along the south line of Milestrip Road at an interior angle of 181°20'34" a distance of 199.93 feet to a point; Thence northeasterly along the south line of Milestrip Road at an interior angle of 161°45'56" a distance of 103.93 feet to a point; Thence easterly along the south line of Milestrip Road at an interior angle of 158°50'49" a distance of 90.21 feet to a point; Thence easterly along the south line of Milestrip Road at an interior angle of 169°08'38" a distance of 90.04 feet to a point; Thence easterly along the south line of Milestrip Road at an interior angle of 177°30'03" a distance of 201.49 feet to a point in the west line of the New York State Thruway (Erie Section); Thence southerly along said west line of the New York State Thruway at an interior angle of 90°09'23" a distance of 252.36 feet to a point; Thence southerly along the west line of the New York State Thruway at an exterior angle of 176°49'50" a distance of 329.38 feet to the point or place of beginning containing 7.32 acres more or less.

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on January 26, 2004 at 7:00 p.m. (Local time), at which time all interested persons may be heard.

Dated: December 8, 2003

Catherine Rybczynski  
Town Clerk

Catherine Rybczynski comments that she has three pieces of correspondence. The first is from the United Council of Hamburg Taxpayers, signed by Joe Kilian , President. The second is from the Village of Blasdell signed by Janet Plarr. The third is signed by Mrs. Castanza.

Supervisor Hoak asks that the correspondence be entered into public record and if there is an issue that is not addressed during the public hearing, it will be brought up.

Councilman Cavalcoli comments that he has a letter from a Daniel Adamczak that should be entered into correspondence, dated January 21<sup>st</sup> in opposition to the proposed Tops and is concerned with drainage, sewer back-up and sewage overflow.

Supervisor Hoak comments that no action will be taken this evening, a minimum of two weeks is taken for those who could not be present and have not a had a chance to correspond.

Councilman Cavalcoli comments that he and the Town Board are well aware that there are serious concerns of residents regarding the rezoning and the type of development that could occur at this site, on Milestrip near the exit 56 Thruway exchange. This public hearing is on the draft environmental impact statement which is part of the rezoning process and a requirement of the SEQR process. Mr. Reilly will address the timeline, procedures, policies and things that go along with this. Additionally he would like to indicate that this project has been going on for well over three years. There has been input from the Planning Board, Traffic Safety Board, Conservation Advisory Board, serious meetings and discussions with the NYSDEC and U.S. Army Corps of Engineers. What is happening at this point is that the applicants have submitted their draft statement to the Town which was written by them with their look at it and their information. It was expressed when they received and accepted the DEIS that there may be flaws in it and areas that were not fully considered, that is to be determined. One of the things they were asked to do tonight is to give input on this rezoning process and to help the Town Board consider if enough information has been given and if that information is adequate and sufficient and truthful. This will not be decided in two weeks. Many residents are present because they are opposed to a Tops market. Tops has been the primary consideration for the application for this rezoning and most of the draft statement was prepared considering this to be a supermarket, however much has happened in the last number of weeks. This last Sunday there was an article in the Buffalo news indicating that with the reorganization of the Tops market and the economics of the area that Tops may not be coming to this site. They cannot say that but he would like the public to know that it may not be a Tops supermarket.

Mr. Reilly comments that they received letters from the County of Erie, the New York Office of Parks, Recreation and Historic Preservation, and he was asked by the NYSDEC to read their letter at this meeting. Since the Comprehensive Plan was adopted in 1997 they have only averaged about two rezonings a year. The applicants finally changed their plan enough to come to the Town and say it has merit, this doesn't mean the Town will approve it. Within the Comprehensive Plan this is right on the border of two areas between a major commercial area and a residential area. The Comprehensive Plan calls this a mixed use area and physically says that the Town needs to consider these areas that are transitional areas. That is why the Town gave it merit and entertained it approximately 1 ½ years ago. The next step of the process is that anytime there is an action before the Town you have to consider the environment under the State Environmental Quality Review Act. The Town took the most conservative and strong position on that, after looking at the plans, and gave it a positive declaration, stating that the project has a lot of potential environmental impact and the applicant would have to do an environmental impact statement. The next step they did, early Spring of last year, was to scope the document, basically decided what they needed the applicant to study. They did a six page scope that said which things they needed to study to prove to them that this project will not be problematic. Over the next six to eight months the consultant did his job of putting together a response to their scoping. They responded presenting their project with the least impact as possible, trying to mitigate all the potential environmental problems. Then the Town reviewed it for a couple of months trying to determine if they studied all the things they asked them to study. The Town Board determined that they did study what they asked them to and presented a resolution to hold a public hearing. That is where they are at tonight. They will take public comment or will accept a letter from anyone not feeling comfortable enough to get up and speak. At the end of this comment period the Town Board and Planning Department have to determine what things they have to answer that were raised during this comment period. The Board has some discretion as Lead Agency to determine what comments can or cannot be looked at. For example, there have been a lot of calls to his office about the possibility that if this project were built there, it will close another business in the Village of Blasdell. Unfortunately, the SEQR law is very clear, that is not something they can consider in their actions.

The next part of the process is the Final Impact Statement where the applicant will have to respond to the questions raised. The Town then needs to answer those questions in the form of the Final Impact Statement which represents the opinions of the Town. Once that is completed the Town Board will say it is complete and then they have to wait at least 10 days for an action on it. The 10 days is for other agencies to approve of what is said in the FEIS. After that 10 days the Town needs to make a decision on SEQR, which is called findings. They can make a positive finding (in favor of the project) or a negative finding saying they haven't mitigated the environmental findings. In those findings they can include conditions such as limitations of uses or different things that need to be done. They have to be supported by the documentation. If they find in favor of the project, then the Town Board can act in favor of the rezoning, and if they find in favor of the rezoning the applicant can come to the Planning Board with the Site Plan for their approval. This is a very long process. This is a joint public hearing on the rezoning and on this document. He questions if the Town Board needs any clarifications on the project.

Councilman Cavalcoli comments with the FEIS there is a minimum of 10 days, is there a maximum. Mr. Reilly comments that he doesn't believe there is a maximum, it is supposed to be reasonable, all time frames under SEQR are not mandatory.

Drew comments that agencies have reviewed this and the DEC asked that their letter be read into the record. He summarizes as follows: Basically the Department of Environmental Conservation has reviewed the DEIS and they would like the following things addressed in the FEIS: the most serious concern noted by the Department staff is the amount of cleared space proposed on the south side of the access road and parking lot called the transition zone between Blasdel Creek and the proposed grocery plaza. We understand the reason for clearing the vegetation in this streambank area is to provide an additional strip of parking. Accordingly, in order to provide the parking and match the lower elevation of parking elsewhere on site, it is proposed that the bank at that location will have to be cut back significantly for stability and to prevent erosion. However, the plan shows 9, 14 and 15 feet high Slope Block Wall Unit installation options, which would be constructed at the extreme southern end of the proposed grocery store site to provide additional parking and to stabilize that high cut bank. Based on that plan element in order to significantly reduce the negative impacts related to land disturbance proposed in the rest of the cleared space transition zone, this Department strongly recommends that the bank stabilization structure options be installed along most of the entire cleared space transition zone, another words build a bigger wall and push it back a little bit more so they would disturb less of the stream area. The second most serious concern is the landscaping changes that are being proposed. They go on for about a page and a half about the type of landscaping and plant species that should be planted in the vegetated areas. What they are asking is that they try and maintain the natural area, and they want them to use the right species to maintain the natural condition there. They also have some general comments on the storm water stating that they were a little confused about the discharge location of the storm water and how that is going to work. They ask for some larger figures, they said that in order to make this easier to read, that a lot of the figures have been made smaller, and they would like some of the figures to be larger in the FEIS so they could catch some things. The next major comment was on the storm water and they have three major concerns about the type of storage. The new laws in the State of New York require not only treating quantity but quality and they have concerns about the type of system that is being proposed. They also had concerns about the 100 year storm event and about the extended period of detention that is required. They have a closing paragraph that states that the DEC was unbiased in regard to approval and disapproval of this proposed Tops grocery store. We have not attempted to review the traffic study or other local concerns that are beyond our immediate regulatory jurisdiction. They don't comment on traffic, that's not what they do, they comment on environmental issues. In respect to our regulatory jurisdiction, this office does acknowledge over many years of review, that the project sponsor's have greatly reduced the size of the project, eliminated a proposed gas station and have made other significant positive environmental changes to this proposal, including a proposed park land donation to the community or conservation easement/deed restriction agreement to preserve and protect a forested area on the proposed grocery store property which is adjacent to the town park with proposed federal wetland mitigation in the town park. Then they end with - We trust, and certainly the public should have the right to expect, that the work related to the project that is ultimately constructed on the site, if approved by the Town of Hamburg, will be carried out in accordance with the descriptions, discussions and mitigation commitments made in this DEIS by the project sponsors.

Councilman Cavalcoli comments that whenever they do a rezoning it is based on a referral from the rezoning committee and the Town Board, before it goes to the Planning Board. One of the prime considerations in doing that is that in the Master Plan it calls for this area to be a commercial area. While this property is zoned R-2, it certainly has some very difficult problems to be addressed if it were to become residential. So, in their Master Plan this was considered to be a primary area for commercial development. That is one of the reasons they have been entertaining this. He turns it over to Mr. Battista from Benderson Development for brief comment.

Tony Battista comments that he is the director of leasing for the Northern region of Benderson Development Company. He thanks the Board and residents for being there this evening. This meeting is for the feedback from the neighbors and residents that are involved with the site and specifically for the DEIS. As far as the information that is out now that Councilman Cavalcoli alluded to, they are still optimistic that a Tops supermarket will go there and the DEIS study is specific for supermarket use. He turns it over to Peter Trowbridge, who has been their lead consultant on the project, to give a brief presentation.

Mr. Trowbridge thanks everyone from the community for coming out to give their comments. Both Councilman Cavalcoli and Mr. Reilly have talked this evening about the consistency of this project relative to the Comprehensive Plan. It is their interpretation, as well, at the beginning of this project that there is very clear language, for the area between the I-90 and the exit ramp, that talks about mixed use development. This allows for higher density housing and commercial retail. Just to the east of I-90 there is quite a bit of retail and commercial development and just to the north of this parcel is the former Cracker Barrel. To the south is the primary residential area. They did walk the Blasdell Creek corridor just to try and understand what the creek looks like in various locations. If you walk along the east side of I-90 you will see Blasdell Creek primarily as a roadside ditch. It is culverted under I-90 and then goes through the site. Certainly the character of Blasdell Creek as it moves through the site is quit scenic. Once it goes under Milestrip Road it is culvertized again and it is reinforced with quite a bit of rip-rap as it once again goes through a culvert at Exit 56. Blasdell Creek changes quite a bit through that area with the highest quality associated with this site. The zoning is not for the entire parcel, the zoning change is being asked for roughly 7 acres of a 12.2 acre parcel. The area immediately adjacent to the residential areas will remain at R-2. The developer has chosen to ask for a rezoning only for the area associated with the retail development and parking. All the rest of that parcel will remain at the existing

R-2 zoning. So, just a little over one half of the parcel is being requested for rezoning. There has been a lot of discussion about traffic and landscape character and the type of plants that are acceptable along a State Road. There is a very wide right-of-way along Milestrip Road. Blasdell Creek runs along the south side of the parcel and the proposed development is approximately 61,000 sq. ft. of retail space and 370 sq. ft. of parking space. All the planting south of the parking lot, south of Blasdell Creek, is all made of plants that are found in and on the site. All the plants out near Milestrip Road have been accepted by the NYSDOT. The primary entrance drive is at the traffic light at Exit 56 on Milestrip Road. There is a secondary entrance and egress immediately north of the store. About the store location, they did try and position it as far away as possible from the Blasdell Creek corridor. It is up in the northeast corner immediately adjacent to the I-90 corridor and as far away from existing residential as possible. One other thing that Mr. Reilly had mentioned in the DEC letter is that there is a big mound of soil that was put on the site when DOT realigned Milestrip Road. What they are looking at is removing that and pushing the store and parking lot down, anywhere from 8 - 12 ft. below the grade, and the intent is to try and mitigate the store and parking visually from the surrounding residential neighborhood. On the site, they did provide retaining walls in that area and in the DEC letter they would like to extend the retaining wall as far as possible and reduce the amount of vegetation removal. They tried to do that and he shows that the amount of disturbance has been reduced to 20 - 30 feet beyond the retaining wall. There is some confusion in the DEC letter because there are places where they are asking them to put a retaining wall where no retaining wall is warranted. He feels they need to have another conversation with DEC because that is not very clear.

Councilwoman Kesner questions what type of retaining wall he is talking about. Mr. Trowbridge responds that it would be a masonry block wall with a guardrail on the top for code reasons.

Mr. Trowbridge comments that the area that is being disturbed has been disturbed historically. There is both a big mound of soil that was left after Milestrip Road reconstruction and there was a small homestead site on the property and the buildings are now gone. There was quite a bit of clearing as a result of that homestead and the combination of the soils left over from reconstruction. What they have tried to do is fit the store and parking into the area that has been already disturbed on the site and keep the parking and store outside of the Blasdel Creek corridor realizing the importance both as a natural area and the buffer to the surrounding residential neighborhood. They shaped the parking lot and development to fit into the existing previously disturbed areas on the site. They did do a lighting study to look at various footcandle levels on the site and this was done independently and then he describes in technical terms how this was done. Of the 12.2 acres, 6.3 will be completely vegetated. The developer is only looking at developing ½ of the real estate on that parcel. They have talked about agency reviews, they have had quite a few negotiations with the Army Corps of Engineers about mitigating a small isolated wetland, which everyone agrees is probably created by the homestead site that occurred with the realignment of Milestrip Road. They were concerned with the disturbance of Blasdel Creek and they have reduced that to the point where the Army Corps of Engineers has given them a Nationwide permit. This allows the project to go forward, however the developer is also responsible for replacing 10,000 Sq. Ft. Of wetland areas that are disturbed. The developer has to create twice as much wetland space and habitat and earth dimensions to create those to the satisfaction of both DEC and Army Corps. Those will be re-created within the watershed south of the property. Drainage is another concern that a number of people have talked about. Most projects like this, the DEC requires a SPDES permit. There is a brand new regulation, just come to law in the past year, in terms of water quality issues and water retention on site. The concept with this is that there is a big cistern under the site so that all the new water that comes off the parking lot would be retained in this cistern. It would only get metered out at the same rate the water now leaves the site. That is the intention. Despite the fact that there is additional runoff, the new runoff cannot leave the site at any greater rate than it does now in its current natural state. So while there is concern with the drainage downstream, he feels they have done everything technically possible to make sure that the surge of water that you would typically get in a day of rainfall event would not exacerbate downstream drainage. They will retain that on site and meter it out at the same rate the water now leaves the site.

Councilman Cavalcoli questions on the cistern that is under the parking lot, what type of event would that be able to handle. Would it be a 50 year event or 100 year event. Mr. Trowbridge responds that it would be the 100 year event.

Councilwoman Kesner questions on the 6.3 acres that are vegetated, will they remain forever vegetated or will there be opportunities to develop that in the future. Mr. Trowbridge comments that post construction there will be 6.3 acres of vegetated property. Councilman Cavalcoli comments that one of the things discussed was to put that area into the new zone they created called the park zone so that it would remain in perpetuity in order to protect it. Mr. Reilly comments that they one of things they already talked about in the scoping was to not only to rezone that but also place a permanent deed restriction for a conservation easement or dedicate it to the Town or a combination thereof.

Dean Collins comments that FRA Engineering was hired by Benderson Development to conduct a traffic study along Milestrip Road. This traffic study was based on the scoping session that was done by the Town. They have been working on the traffic in the corridor for about 18 months. The study includes the intersection of South Park Avenue and Milestrip, the intersection of Thruway Exit 56 and Milestrip, the un-signalized intersection of the former Cracker Barrel and Milestrip Road, the intersection of Home Depot/ BJ's Plaza and Milestrip and the intersection of McKinley Parkway and Milestrip. This traffic study was done to the satisfaction of the scoping document and to the guidelines that were established by the NYSDOT. They have had about 5 or 6 meetings with the DOT, to talk about the scope and to talk about the information that was acquired. Traffic counts were done in March and April of 2002, accident reports were acquired by the Police Department. What they do is take a look at the corridor and they have software that tells them how traffic flows through the intersections along the corridors. Based on the study, which is based on a 61,000 Sq. Ft. Supermarket, and information that was generated from all over the country, they also had information from Tops markets in the area. All this information is then placed on the system and then they assess the impact associated with that traffic. Then those impacts are then actually compared to the existing traffic as well as background traffic. Based on that study Benderson is going to be required to do an extensive amount of improvements along Milestrip Road. Specifically, at the

driveways as well as at the BJ's and Home Depot driveways. As part of the improvements the primary driveway will be aligned directly across from Exit 56.

This driveway will require two inbound lanes and three exiting lanes from the development including a left turn lane, a through lane and right turn lane exiting the development. In the eastbound direction, currently there is a single left turn lane from Milestrip that turns into the Thruway interchange. As part of this development they are proposing two eastbound left turns instead of one. These turn lanes will be protected movements so they will get their own phase, as part of the accident analysis that there have been a number of left turn accidents colliding with through traffic on Milestrip. To alleviate that, they will make that a protected phase which means that it will move all by itself without any other traffic going through the intersection. Another mitigation measure will be to install an eastbound right turn into the site. They will add an additional lane to the interchange coming off the Thruway so there will be a left turn lane, a through lane and a right turn lane. In the westbound direction along Milestrip the center median will be striped for a left turn lane as well and the signal itself will go through a number of improvements. The easterly driveway is located about 610 ft.. from the Thruway ramp, based on their study there is limited sight distance east so they are proposing left turns in and right turns out only. Left turns are primarily to get traffic into the development. The last piece of mitigation proposed is for the BJ's/ Home Depot intersection. Currently that intersection doesn't operate that well, so a re-striping of the approaches out of Home Depot and BJ's is required. They are proposing exclusive left turn lanes, with through right lanes and some signal modifications. He did speak with the DOT and they have not formally issued their comments but they have been working with them and it looks fairly positive as far as traffic is concerned. He then shows the Town Board maps on what he has been speaking about and they discuss some issues.

Councilwoman Kesner comments that she would like to see the driveways realigned with the driveway coming out of the old Cracker Barrel. Councilwoman Hochul comments that this would make sense if there were to be redevelopment at that site. Mr. Collins comments that they will take a look at that. Councilwoman Hochul questions that the study is based on a 61,000 Sq. Ft. Grocery store, is that considered a high level use. Mr. Collins responds that this is definitely considered a high level use. Councilwoman Hochul comments then the study is basically a worst case scenario. If it ends up not being a grocery store it would be a lower density. Mr. Collins responds that if it wasn't a grocery store but was strip retail they would typically use a use called shopping center and those numbers are from 15 - 30% less. Councilwoman questions how a hotel would rate. He responds much less. Councilwoman Hochul comments that the level of service along the road at these intersections is currently A and these changes would reduce it to a B. Mr. Collins responds that some of the intersections go to a B some are still maintained as a D or E. She comments that this will still be reviewed by our Traffic Safety Advisory Board. Mr. Collins responds that they received comments from them. Mr. Ellis, Traffic Safety Coordinator comments that they haven't completed their look at the final report that came out in December of 2003. Councilwoman Hochul comments that traffic is a major issue and a project that would have less traffic would be more palatable.

Supervisor Hoak opens it up for public discussion. If traffic is going to be a major concern for many people in this room, they would like to limit the discussion to a few people instead of beating a dead horse. Councilman Cavalcoli comments that if they have a particular issue and they say that they are opposed to this rezoning or project because of traffic and someone has already identified that, then just state that reason.

Stanley Lukaszewicz, 3608 Fuller St., comments that he is against the rezoning and also asks the Board not to rezone the property on Milestrip Road for Tops. Not only will they lose their woods, but the animals that live there. There is a Tops store only five minutes away, why do they need another one. The noise pollution and the traffic will make it impossible for them to enjoy the area as they do now. There has been over 1,000 accidents at the corner of his street and South Park and Johnson Street. We do not need another Tops store in this are. Thank you.

Janet Plarr, Village of Blasdell, comments that they have a letter in front of them that was delivered to Town Hall. She would like to highlight a couple of points and respectfully disagree with the DEIS in that it is a 25 year event plug not 100 year. The proposed flow rate through the culvert, after the development, may be limited to the existing 25 year storm event rate by the hydraulic characteristics of the culvert. The developer has failed to examine the effect of the increase in duration of the release of the stormwater at the rate on the areas downstream of the sixty inch culvert. An increase in the duration of flow at the 25 year storm rate may further compound the current flooding problems along Blasdell Creek as it passes through the Village.

As noted in a letter to Supervisor Hoak last January the Village requested a comprehensive stormwater study of the affect of the proposed development on the Village residents along the Blasdell Creek.

The Village would like to once again reiterate this request as the stormwater information presented in the DEIS fails to address Village stormwater issues, especially during snow melt and wet weather events there is extreme flooding conditions already. Also, in regards to wastewater, the DEIS suggests that wet weather capacity issues of the sanitary collection system are outside of the flow routing proposed by the project. The Town has also stated to the Village, at times, that there are no significant wet weather flow issues within the Towns portion of the sewer system. But, the Village would like to reiterate that the Village of Blasdell as well as the NYSDEC have expressed concerns regarding the affects of any additional sanitary flow on Town and Village, now County sewers, especially those along Allen and Maple Avenues. The Village of Blasdell respectfully requests that these issues be thoroughly studied and addressed prior to any action being taken by the Honorable Board.

Councilman Cavalcoli comments that the event addressed in the DEIS is a 100 year event which has much more impact than the 25 year event. Mr. Kapsiak comments that Janet stated that the DEIS reads 25 year event but it was stated tonight that it was a 100 year event.

Bob Graham, 17 Avon St., comments that they talked about the sanitary sewer going down Maple to the north terminal with the interceptor at Miller. They have a chronic problem with water on the east side of South Park. He describes how sewers in the area run to the same interceptor. There were 41 backups with the most recent on 11-28-03. You are trying to put six gallons in a 5 gallon can now, they want to bump it up to 8. He is on the upper part of Avon flowing towards South Park and it is backing up now. Councilman Cavalcoli states that Bob refers to a letter, that the Board has, that indicates the peak flows and information he obtained from Village records which is entered into the record for their review. Bob spoke to a DEC representative who commented that the Blasdell Creeks are now at the maximum. Councilman Cavalcoli asks who he spoke to. Mr. Graham responds Dan Judd. Councilman Cavalcoli responds that Mr. Kapsiak has worked closely with Mr. Judd on that whole Town and Village problem. He then comments that this is an extremely strong consideration. The Village residents have a particular concern here and he does believe that there are two major issues to be addressed in reviewing the DEIS. One is the traffic and second is the downstream effects of this project.

Councilman Quatroche comments that in many development projects they require developers to upgrade the traffic system. If there is an undo stress on a sewage or water system due to development is there any ability for the Town to require the developer to address those issues. Mr. Reilly comments that they have had projects where they didn't have downstream capacity and it had to be mitigated or the project doesn't go forward. They have had many projects before the Planning Board that were initially approved but have never been built because they never resolved the issues with the sewer.

Julie George, 3576 James St., comments that she is a resident directly south of the project that they are discussing and she is concerned about the traffic issues, because she drives that area daily. She is also concerned about the water runoff because they already have those issues and cannot imagine them getting any better with this. She wants to break it down to a more personal level, she has a child in that area that rides a bike and walks her dog and wants to be able to walk to the playground behind this development. There are more parents, like herself who do not feel very safe letting them go there. Her concern is the safety of her neighborhood.

Karen Fenzel states her concerns have already been addressed.

Linda Dorr, 3564 Harrison, comments that her concern is traffic. She lives on the corner of Johnson and Harrison and trying to get off Johnson and make a left onto South Park is very difficult. Even making a right is difficult. Sometimes, during Christmas season, it is backed up all the way to Target. Councilwoman Hochul responds to her comments about Johnson Street stating that this Town Board has asked the DOT repeatedly to install a signal either there or on Fairview just to give them a break to get out of there. She hears accidents along there all the time. Councilwoman Hochul asks that they get signatures from neighbors in the form of a petition.

Kevin Connolly, owner and operator of Jubilee in Blasdell, commenting that his store would be unlikely to survive the anticipated drop in sales that would occur if this project would go forward. Jubilee food stores are independently owned and operated by people who live in the



community, like he does. Tops is owned by a huge multi-national company based in Europe with annual sales of over 40 billion dollars and the financial where-with-all to outlast the little guys. He sincerely doesn't believe this is in the best interest of the community. In the slightly more than three years that his family has operated the Jubilee they have paid well in advance the \$135,000 in property taxes and would like to believe that that stands for something.

After three years plus of working hard and establishing themselves in the business ,they recently started discussions with their landlord about remodeling the store, but this matter has cast serious doubt on that prospect. He doesn't want Jubilee to join the ranks of Ames, Gold Circle, Hamburg Village Jubilee and K-Mart and it is his hope, that along with the environmental and community concerns the Town Government will take these issue into account when making it's final decision. The company he is associated with, recently did a department research study and when they got to the part of expected commercial developments in Western New York that could affect their business, what they mentioned was not a Tops at the I-90 and 179 but a Wal-Mart Supercenter. The Wal-Mart would affect him just as much, if not more than Tops. It would even have greater environmental impacts. Councilwoman Kesner questions if a lot of residents walk to his store. Kevin responds yes. Councilman Cavalcoli responds that while they are not supposed to consider competition and the impact on one business to another, the Board does have the responsibility to consider the overall environmental impact which includes social impact. If it reduces and has significant affect on peoples abilities to get groceries through walking, then that can be considered as part of the whole process because it is a social impact, not just economic. They do have a responsibility to the Village of Blasdell, being part of the Town of Hamburg, and he would like to note that there are three other members of the Village Board present, so they do have good representation. In terms of the Wal-Mart Supercenter, his understanding, is that in order to build a supercenter they would need 30 plus acres and this site only has 12 acres and of those 12 only 8 are developable. Mr. Connolly questions if the old Cracker Barrel site was a possibility for Wal-Mart. Councilman Cavalcoli responds that Wal-Mart people came and met with the Planning Department and had been looking at sites and through the Industrial Development Agency they were looking for sites and that was not one of the ones considered. Mr. Connolly comments on the number of parking spaces required. Mr. Reilly responds that they do not have the required number of parking spaces for this size structure so they will need a variance for the parking. Councilman Cavalcoli thanks Kevin for his comments stating that they do have a special interest for the residents of Blasdell and the people that walk to his store. Supervisor Hoak comments that the Town Board has no idea where Wal-Mart is going to go. However any discussion that has taken place has been on the Camp Road/Southwestern corridor.

George Lee, Deputy Mayor of Village of Blasdell, comments that traffic is a big concern and if they need to have a variance for not enough parking, then if people go in and ride around trying to find a parking space it will cause problems. At South Park and 179 people are allowed to make a right on the red light. Most of the accidents are caused from people making a left hand turn from the opposite side and people making a right hand turn to go towards Blasdell and Buffalo. Even if Tops doesn't go in there, something will, and this should be addressed. He submits a couple of pictures of Milestrip coming off the Thruway.

Jerry Devlin, Erie County Environment and Planning, comments that Erie County recently took over the sanitary sewer system in Blasdell and they have put in meters in various areas, downstream of where this will go and they don't have a definitive answer at this point. The jury is still out , on their part, as to whether there is capacity or not. He will be studying that. Councilman Cavalcoli asks if he is referring to capacity in general or just for this project. Mr. Devlin responds just for this project, just the wet weather aspects, there is enough capacity in dry weather. Councilman Cavalcoli questions if there is a timeline as to when he would have that data. Mr. Devlin responds that it is weather dependent. Councilwoman Hochul questions if his analysis would vary greatly on whether or not it is a supermarket or another use or does it depend on the area of the parcel that is covered no matter the use. Mr. Devlin responds that they have to go with the number they give them in terms of the water useage and the resulting sewage. Any change in usage they would have to give him the required number.

David Adrian, Planning Commission - Village of Blasdell, comments that he has two questions. The first is directed to the traffic consultant. Could he describe the seasonality of the traffic study and does it take into account the Christmas season as opposed to the Summer season. Secondly, is there any information on the traffic on South Park beyond the intersection of Milestrip and South Park.

Dean Collins responds that the traffic study was done in March and April so that it would be done when school is in session and typically the study is done at a time when traffic is normal.

Otherwise it would be designed for 8 week-ends a year. Again, given a supermarket use, which is a common everyday occurrence, maybe the traffic might be higher during the holiday season but otherwise they look at standard normal operations. Based on the scoping that was done, they only included the intersection of Milestrip and South Park.

Mr. Adrian questions who would be responsible for clearing the snow on the pedestrian right-of-ways and sidewalks. Councilwoman Hochul responds that the property owner is responsible. Mr. Reilly questions if there is a specific intersection he is concerned about. Mr. Adrian comments that it is a gradient starting from the intersection of Milestrip and South Park northward towards Lake Ave.

Laura Podkulski, 4332 McKinley Pkwy., next door to Tops on seven corners. Questions what will happen to the Tops next door to her house. Mr. Battista responds that at their last meeting with Tops they said they wanted that to remain open. Councilman Cavalcoli comments that this was one of the questions they addressed and he can give her no greater guarantee than Mr. Battista, however, a reality that they all face is can they support that many of the same supermarket within the Town. Councilwoman Hochul comments she feels she is correct to be skeptical on that.

Philip Mada, 4775 Bayview Road, just behind Tops on McKinley, comments that it was stated earlier that they are not supposed to consider the competitiveness of these companies in moving from one place to another. However, isn't this the sole purpose of Tops markets for moving or building at the entrance/exit of the Thruway, to be competitive. Councilman Cavalcoli comments that certainly this is a competitive move. However, if he is asking his opinion versus what the Department of Environmental Conservation and the SEQR law tells them they as a governing body can do. When they charge a developer or client coming for a rezoning or for any SEQR process, they cannot list that as one of the conditions. That they could drive out one store versus another. That is the kind of competition he is talking about and they cannot use that as a valid criteria for stopping a project. However, they can consider the overall social and economic impact on the community, not one store versus another. Mr. Mada wants to reiterate that with the traffic concerns, the sewer concerns and the empty building concerns, the people in this community cannot be the close knit family - Town that Friendship built. Councilman Cavalcoli responds that is the overall main issue that the Town Board struggles with on all of the projects is the impact on the community and the future generations. It does not fall on deaf ears. They have certain things they are bound by law to consider, the applicant has every right to come before them and ask for these things and present these issues, but they have every right to demand the full measure in getting to the issues of traffic, environment, all those things are paramount to this Board. But, they do have to follow due process.

Councilwoman Hochul questions Mr. Reilly, can social concerns or issues that they are allowed to examine under the statute, can that be defined to consider blight, abandoned buildings and other social impacts to community. Mr. Reilly comments that is a very tough issue. Social and economic issues would need to be addressed legally. One of the issues they did identify was, for the people who shop at Jubilee and walk to store now, would they be able to shop at the new store if Jubilee were to close. This issue was identified. The social economic issues are difficult issues and they would need to get legal advice on that. They have to follow State guidelines.

Frank Conway, 3542 James Ave., comments that this is about rezoning a piece of property that is basically a buffer zone between a residential area and a commercial area. Can't they encourage these companies to alter land that has already been abandoned in Hamburg and Blasdell? Hills Plaza, Ames or K-Mart? Supervisor Hoak comments that they do that often, and they haven't been successful at it. The Southshore Plaza has been the prime location they have encouraged for development. You can't demand it, you can only strongly encourage. The concept is very good but they can't demand it. The big anchor stores feel it is cheaper to go in and build new rather than renovate. Mr. Conway comments they want their greenspace.

Councilman Quatroche comments that they did at one point work with the Village of Hamburg, the Chamber of Commerce and the HIDA to look at economic development zones and they did establish those. Brierwood Plaza is an example and they try to encourage Wal-Mart or any other developer to come into those areas at a reduced tax burden, so that they would not look at new sites. Again, they can't mandate that, from the Town governments point of view that is a good incentive and something they can offer. He has to say that Supervisor Hoak is very diligent in those efforts and works very hard on a daily basis. The public needs to know that, while there are some things they can't say with regard to law, that they do encourage this as much as possible.

Supervisor Hoak comments that they are looking forward to more correspondence from the public and he thanks them for coming this evening.

**I.**

**RESOLVED**, that the Town Board close the public hearing at this time.

Moved: Hoak

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatorche

Noes: None

Carried

**II.**

**RESOLVED**, that the Town Board approve the minutes from the following:

December 15, 2003

Work Session

December 29, 2003

Year End Meeting

January 5, 2004

Reorganization Meeting

January 12, 2004

Work Session

Moved: Hochul

Seconded: Hoak

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatorche

Noes: None

Carried

**III.**

**BE IT RESOLVED**, that the Town of Hamburg enters into a contract with the County of Erie for participation in the S.T.O.P. DWI Program. The contract period is for January 1, 2003 through December 31, 2003.

**BE IT FURTHER RESOLVED**, that the Supervisor is authorized to sign the contract on behalf of the Town.

Moved: Hoak

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**IV.**

**RESOLVED**, that the Town Board authorize the Finance Department to increase SS 28 8110.428 Debt Service Handling Charge for \$1,214.00 through Appropriated Fund Balance account # SS28 599. This is to fund account for the annual charge in the State Revolving loan agreement of E.F.C.

Moved: Hoak

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**V.**

**RESOLVED**, that the Town Board grant permission for the Domestic Violence Department to hire Stacey Wicks as an Intern in the Domestic Violence Department, at no cost to the Town. Stacey is in the Work-Study Program at Hilbert College.

Moved: Kesner

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**RESOLVED**, that the Town Board approve the Transfer of Appropriations for the Town Board within the 2004 Budget as follows:

From: Contingency Account	A1990.419	\$2,292.00
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To:	Personal Safety Equipment	A9070.870	\$2,292.00
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Additional cost of Defibrulators.

[illegible]

VII.

**RESOLVED**, that the Town Board accept the Internet Usage Policy for the Town of Hamburg as presented by the Town's Computer Committee.

Moved: Kesner                      Seconded: Cavalcoli  
Roll Call:        Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                        Noes: None  
                        Carried

VIII.

**RESOLVED**, that the Town Board authorize the Recreation Department to issue alcohol waivers for the following February Taylor Road rentals:

2/06/04	2/07/04	2/13/04	2/14/04
2/15/04	2/21/04	2/22/04	2/27/04
2/28/04	2/29/04		

Moved: Quatroche                  Seconded: Hochul  
Roll Call:        Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                    Noes: None  
                    Carried

## IX.

**RESOLVED**, that the Town Board approve the use of six (6) voting machines for Hamburg Central School District to be used at the Annual Budget Vote and Board Election on Tuesday, May 18, 2004.

[illegible]

## X.

**RESOLVED**, that the Town Board approve the hiring and termination of personnel for the Assessing Department as follows:

1.	Aydelotte, Dawn	Part-Time Clerk Typist	01/27/2004	Terminate
2.	Aydelotte, Dawn	Seasonal Clerk Typist	01/28/2003	\$9.35

Moved: Kesner                      Seconded: Quatroche  
Roll Call:      Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                    Noes: None  
                    Carried

**RESOLVED**, that the Town Board authorize the Finance Department to increase the following Appropriation Accounts through the Appropriated Fund Balance (B599) in the amount of \$105,598.55:

These funds are unexpended monies received from the Justice Department and F. B. I to be used for law enforcement purposes.

**XII.**

**RESOLVED**, that the Town Board authorize the Finance Department to increase Appropriation Account A4212.497 - D.A.R.E. Contract Expenditures, through the Appropriated Fund Balance A599. These are unexpended D.A.R.E. Grant monies from 2003 in the amount of \$8,089.87.

XIII.

**RESOLVED**, that the Town Board approve the Supervisor Hoak signing Section 8 of the PO-17 form creating the Senior Clerk Typist (Competitive Class) position for the Building Inspection Department. In accordance with the provisions of Civil Service Law, Section 22 Erie County Commissioner of Personnel, John W. Greenan, has complete Section 7 of the PO-17 form certifying this the appropriate title for the position.

XIV.

**RESOLVED**, that the Town Board approve the Transfer of Appropriations for the Planning Department within the 2004 Budget as follows:

To reimburse account for reprinting of Open Space Recreation Plan.

Moved: Cavalcoli  
 Seconded: Quatroche  
 Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
 Noes: None  
 Carried

**XV.**

**RESOLVED**, that the Town Board approve the membership of the following into the Lake Shore Volunteer Fire Co., Inc.:

Sean Wall  
2683 Lakewood Avenue  
Hamburg, N.Y. 14075

Justin Hummell  
4231 Victorian Drive  
Hamburg, N.Y. 14075

Moved: Kesner

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**XVI.**

**RESOLVED**, that the Town Board approve the use of two (2) voting machines for the Village of Hamburg to hold their General Village Election on Tuesday, March 16, 2004.

Moved: Hochul

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**XVII.**

**WHEREAS**, the Town of Hamburg entered into a contract with Ronald C. Hosken, Architect in May of 2000 to provide architectural services required for roof replacement on the Seaway Trail Visitor's Center (formerly Wanakah Water Works Building), and

**WHEREAS**, subsequently bids were received for the roof replacement, which exceeded the funds available, resulting in roof replacement of only the north portion of the building, and

**WHEREAS**, funding is now available in the 2004 Town budget for roof replacement of the remainder of the building, and repair and pointing of the brick walls, and

**WHEREAS**, the firm of Ronald C. Hosken, Architect, provided the original roof replacement services, is familiar with the building and has the necessary qualifications and experience to provide the architectural services required for the roof replacement and brick repair and pointing.

**NOW THEREFORE BE IT RESOLVED**, that the firm of Ronald C. Hosken, Architect be awarded a contract to provide architectural services necessary for the remaining roof replacement and brick repair and pointing and related work at the Seaway Trail Visitor's Center, (formerly the Wanakah Water Works Building), S-4968 Lake Shore Road, Hamburg, New York, in accordance with the architect's quotation dated December 15, 2003 and in general conformance with the architects previous roof replacement contract, and

**BE IT FURTHER RESOLVED**, that an amount of \$10,000.00 be allocated from the 2004 capital bond account to cover the architect's fee of 9% of the cost of construction and related administrative costs such as advertisements, printing and other reimbursable expenses.

Moved: Hochul

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Joe Kilian, United Council, questions if you need an architect to do a roof job.

Richard Crandall responds, how do you do it without one. He has been in this business for 50 years and he has never seen one done without an architect. Councilwoman Hochul assures him they will safeguard taxpayers dollars, this is necessary.

**XVIII.**

**RESOLVED**, that the Town Board approve the hiring and termination of personnel for the Building and Grounds Department as follows:

1. Barbara LaRosa	Seasonal Clerk Typist	01/06/2004	Terminate
2. Barbara LaRosa	P/T Clerk Typist	01/20/2004	\$9.97

Moved: Quatroche

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**XIX.**

**BE IT RESOLVED**, that Christopher Smelt, a masters student of Urban Planning at The State University of New York at Buffalo, be allowed to complete an internship in the Town of Hamburg Traffic Safety Office starting immediately and concluding with the end of the school year in May of 2004. The purpose of the internship is to develop a data layer of traffic signs for the GIS system. There will be no cost to the town for this internship.

Moved: Hochul

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Mr. Ellis, Traffic Safety Coordinator comments that they are very excited about this because it will allow the Traffic Department to connect with the GIS and put the traffic signs on that system. This was spearheaded by Donna Gavin, Computer Support Technician, and he also wants to thank Robert Hutchison and Richard Lardo for their support and assistance as well. This is a great step for them to have control over what signs they have and where they are.

**XX.**

**RESOLVED**, that ,as recommended by the Recreation Advisory Board, the Town Board approve the closing of the Town Golf Course for the following dates and times for the Senior's, Women's, & Men's Golf Club Tournaments:

Senior's:	Tuesday June 15, 2004	7:30 A.M. to 12:00 P.M.
	Friday, July 23, 2004	7:30 A.M. to 12:00 P.M.
	Wednesday, August 18, 2004	7:30 A.M. to 12:00 P.M.
	Wednesday, August 25, 2004	Rain Date

Women's:	Thursday, June 3, 2004 - Back 9 only
	Thursday, July 8, 2004 - Both Front & Back
	Thursday, August 19, 2004 - Back 9 only

Men's:	Sunday, June 27, 2004	10:00 A.M. to 12:00 P.M.
	Sunday, July 18, 2004	6:30 A.M. to 10:30 A.M.
	Sunday, August 1, 2004	7:15 A.M. Shotgun Start
	Sunday, August 22, 2004	6:30 A.M. to 10:30 A.M.
	Saturday, September 25, 2004	7:00 A.M. to 11:30 A.M.

And, an exception for this year:

Also: Saturday, August 14, 2004                      10:30 to 12:00 P.M.  
for Pub Links "B Team Event

Moved: Quatroche

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**XXI.**

**RESOLVED**, that the Town Board approve the hiring of personnel for the Recreation Department as follows:

- |                        |                              |            |                     |
|------------------------|------------------------------|------------|---------------------|
| 1. Gregory , Daniel J. | B7310(320)<br>Lifeguard      | 01/21/2004 | \$7.00 P/T Seasonal |
| 2. Anzalone, Anthony   | A7265(230)<br>Rec. Attendant | 01/21/2004 | \$8.00 P/T          |

Moved: Quatroche                      Seconded: Cavalcoli  
Roll Call:     Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                     Noes: None  
                     Carried

**XXII.**

**WHEREAS**, our current telephone system is approximately 14 years old and parts for it are becoming more scarce and some no longer available, and

**WHEREAS**, the telephone committee was formed last year to study and analyze a new telephone system for the Town Hall, and

**WHEREAS**, the committee, after extensive research, has made a decision as to what would be the best system for the Town's needs and also for future use , and

**NOW THEREFORE BE IT RESOLVED**, that the Town purchase a 3Com System as follows from the New York State contract number PT58282 and contract number PS5283:

(1)	Chasis	\$ 1,440.00
(1)	Call Processor with redundant Power Supply	\$ 8,640.00
(15)	Analog Terminal Adapter (\$360 each)	\$ 5,400.00
(2)	T1/Pri Card (\$4,512.00)	\$ 9,024.00
(1)	Upgrade to 12 Port Voice Mail	\$ 5,133.00
(110)	Business Telephones (\$345.00)	\$37,950.00
(10)	Basis Telephones (\$285.00)	\$ 2,850.00
(1)	1400 VA Tripplite UPS	\$ 699.00
(1)	Rack Enclosure 19" Rack	\$ 599.00
(1)	Guardian Service (4 hours response)	\$ 1,500.00
(1)	Call Processor Disk Mirroring	\$ 3,045.00
(250)	Integration Estimate @ \$65.00 per hour	\$16,250.00
(1)	Analog Line card (4 lines)	\$ 1,075.00
Estimated Total		\$93,605.00

**BE IT FURTHER RESOLVED**, that the Town of Hamburg enter into a contract with Integrated Systems to be the subcontractor for installation and service for a total cost of \$93,605.00. Funds are available in the Capital Reserve account H24 1620.203.

Moved: Hoak                      Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                     Noes: None  
                     Carried

Supervisor Hoak comments that this may seem like a lot of money, but 14 years ago, through the assistance of Senator Stachowski, a new system was put in for over \$100,000. Kudos to the telephone Committee.

**XXIII.**

**RESOLVED**, that the Town Board permit David Phillips, Steve McCabe, and Michael Fruth, Attorney, to attend a Zoning & Land Seminar at the Hyatt in Buffalo, N.Y. on February 24<sup>th</sup>, 2004. Cost of Seminar is \$289.00 each, for a total cost of \$867.00, to be taken out of account B8020.492.

Moved: Cavalcoli                      Seconded: Quatroche  
Roll Call:     Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                     Noes: None     Carried



**XXIV.**

**RESOLVED**, that the Town Board approve Pamela Fisher, Heavy Equipment Operator be funded through the vacant position of Asst. Greenskeeper in A7140, \$19.75 per hour.

Moved: Quatroche

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**XXV.**

**WHEREAS**, the Lake Shore Volunteer Fire Company, existing in the Town of Hamburg, has proposed that the interests and well being of their members would be furthered by the formation of a Benevolent Association, and

**WHEREAS**, Lake Shore Volunteer Fire Company, by a Resolution based upon a vote taken at a regular meeting on the 5<sup>th</sup> day of December, 2003, approved and consents to the formation of an association to be known as the LAKE SHORE VOLUNTEER FIRE COMPANY EXEMPTS BENEVOLENT ASSOCIATION, INC, and

**WHEREAS**, the fire company has relinquished and assigned to the LAKE SHORE VOLUNTEER FIRE COMPANY EXEMPTS BENEVOLENT ASSOCIATION, INC, all right and interest in the tax imposed by Sections 553 and 554 of the Insurance Law, and

**WHEREAS**, the proposed special act of the legislature creating the LAKE SHORE VOLUNTEER FIRE COMPANY EXEMPTS BENEVOLENT ASSOCIATION, INC, has been examined,

**NOW THEREFORE BE IT RESOLVED**, that the Town of Hamburg hereby approves and consents to the formation of the LAKE SHORE VOLUNTEER FIRE COMPANY EXEMPTS BENEVOLENT ASSOCIATION, INC, and relinquishes and waives to such association all interest in the tax imposed by Sections 553 and 554 of the Insurance Law.

Moved: Kesner

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, kesner, Quatroche

Noes: None

Carried

**XXVI.**

**WHEREAS**, the Town of Hamburg has received a rezoning application from Green Acres, Inc. for the rezoning of 45 +/- acres of property from R-A (Residential Agricultural) to R-E (Residential Estate) for single family dwellings to be located on the southeastern corner of McKinley Parkway and Newton Road, and

**WHEREAS**, the Planning Department and members of the Code Review Committee have reviewed this application in accordance with the Town's Comprehensive Plan, and

**WHEREAS**, the Comprehensive Plan for this area suggests that "densities of up to one (1) lot per acre could be allowed if important attributes of the area were taken into consideration, or with the intention to conserve land".

**THEREFORE BE IT RESOLVED**, that the Town Board finds merit in this application , and refers this rezoning request to the Planning Board for their review and recommendation.

Moved: Cavalcoli

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Mr. Reilly clarifies that R-A is one house per two (2) acres and R-E is one house per one (1)

acre.

He then states that the application does not state the number of houses. It says that through the process they will determine what is the appropriate number of units that can be placed there. The Comprehensive Plan says that they will consider one lot per acre through the conservation of open space. They need to see the plan in order to accomplish that.

The developer states that they are looking at probably 30 to 32 houses give or take a couple.

Councilwoman Hochul wants to state for the record that it is not for 50 houses.

#### **XXVII.**

**BE IT RESOLVED**, that the Town Board grant permission to hire Amy Spittler as an intern for policy making decisions in the Supervisor's Office at no cost to the Town. Amy is in the Women's Study Program at the University @ Buffalo.

Moved: Hoak

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

#### **XXVIII.**

**RESOLVED**, that the Town Board authorize Catherine Rybczynski, Town Clerk/Records Management Officer, to submit a Historical Records Preservation Grant application to the New York State Archives in the amount of \$60,278.00 to microfilm Court Records and purchase a new microfilm reader/printer to access these records.

Moved: Hochul

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Councilwoman Kesner comments good job Cathy. Councilwoman Hochul thanks Cathy for her leadership and hopefully they will be successful in obtaining \$60,000 to assist with this project

#### **XXIX.**

**RESOLVED**, that the Town Board approve the membership of the Big Tree Volunteer Firemen's Co., Inc.:

Sean Morgan

3447 James Avenue

Blasdell, N.Y. 14219

Moved: Kesner

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

#### **XXIX.**

**BE IT RESOLVED**, that the Hamburg Town Board authorize the Department of Community Development to advertise a Request For Proposals for its required "Five Year Consolidated Plan" study to be submitted in conjunction with the County of Erie for the 2005 - 2009 Program Years. The Five Year Consolidated Plan is a requirement of the Community Development Block Grant and Home Investment Partnership Programs per the regulations of the United States Department of Housing and Urban Development (HUD). The Town of Hamburg Fiscal Year 2005 Community Development Block Grant/HOME funding grant application (One Year Plan; January 2005) will still be completed by the Department of Community Development and incorporated into the final document for submission to HUD. Funding for publication and consultant selection is available in the CDBG administration account(s) and/or program income account.

Moved: Kesner

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

**RESOLVED**, that the Town Board approve the membership of the following into the Newton Abbott Fire Company, Inc.:

Moved: Kesner                                  Seconded: Hochul  
Roll Call:        Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
                    Noes: None  
                    Carried

**BE IT RESOLVED**, that the Town Board approve the appointment of LANCE G. KELLY, 130 E. Prospect Ave., Hamburg, NY to the position of full time Public Safety Dispatcher 55-A (Non-Competitive Class) probational effective January 27, 2004. Salary is \$18.88 per hour, funds available in A3020.100.

Councilwoman Kesner comments that Mr. Kelly is in the audience, he is the newest member of our Pubic Safety Operations to accept calls from our citizens when they need us the most and she welcomes him on board.

**RESOLVED**, that the Town Board grant permission for Detective Laurie Staley/Stone to attend the MAGLOCLEN “Securing America’s Homeland” Seminar, April 5 - 9, 2004 in Cleveland, Ohio.

Registration Fee:	\$125.00
Hospitality Fee:	\$ 50.00
Meals: 5 days @ \$40.00 per day	<u>\$200.00</u>
Total cost: Approximately	\$375.00

Moved: Hoak  
 Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
 Noes: None  
 Carried

**XXXIV.**  
**RESOLVED,** that the Town Board approve the Audit of Cash Disbursements as follows:

VOUCHER #'S

OPERATING FUND:

BATCH #6	\$ 4,576.00	910246
BATCH #7	\$1,521,214.00	910248 - 910250
BATCH #8	\$ 422,726.26	910251 - 910424
BATCH #9	\$1,007,170.58	910525 - 910599
BATCH #10	\$ 14,945.35	910602
PRTRN #P/R 2	\$ 585,670.84	910247

TOTAL OPERATING FUND DISBURSEMENTS: \$3,556,303.03

TRUST & AGENCY:

BATCH #3	\$ 9,459.39	570017 - 570028
BATCH #4	\$ 569,726.99	570029 - 570033

TOTAL TRUST & AGENCY DISBURSEMENTS: \$ 579,186.38

CAPITAL FUND DISBURSEMENTS:

BATCH #3	\$ 325,000.00	710017
BATCH #4	\$ 47,605.57	720018 - 720029
BATCH #5	\$ 27,241.91	720030 - 720042

TOTAL CAPITAL FUND DISBURSEMENTS: \$ 399,847.48

PAYROLL:

PR# P/R 2	\$ 544,712.57
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TOTAL PAYROLL DISBURSEMENTS: \$ 544,712.57

TOTAL PETTY CASH DISBURSEMENTS: \$ 0.00

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT: \$5,080,049.46

Moved: Hoak                      Seconded: Hochul  
Roll Call:    Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
              Noes: None  
              Carried

**Correspondence**

Supervisor Hoak asks Catherine Rybczynski, Town Clerk to read correspondence #3 , concerning the Association of Towns, which stated it should be read aloud at a Board meeting.

The letter is read.

Councilman Cavalcoli comments that this was read aloud because the Association of Towns Committee wanted to make sure that all communities were properly informed in case the residents wanted their elected officials to go for training.

Letter #6 - From residents on Thurston Avenue. Councilman Cavalcoli comments that he has been working on that along with Mr. Kapsiak, Town Engineer, and also Mr. Connolly, B & G, to come up with some alternatives and they will get back to the residents on that.

Letter #7 & #8 - Supervisor Hoak states they are both to the Town Court thanking the employees for their generous donations during the holidays. He wants to publically note that and thank them.

Letter #12 - Supervisor Hoak comments that this is from the Office of Real Property Services congratulating the Assessor for maintaining a system of real property tax administration which meets the highest standards set by the State. He thanks Mr. Hutchison and his staff.

### **Reports from Town Board Members and Department Heads**

Supervisor Hoak waives the reports except for a short report from Councilwoman Hochul

Councilwoman Hochul reports on the traffic signal at Legion and Division, they are making great progress. She thanks Mr. Kapsiak for his involvement. Bids will be opened on February 19<sup>th</sup> and they will be approving the bid at the February 23<sup>rd</sup> Town Board meeting. It is their hope and sincere expectation that they will commence construction of that traffic signal during the Spring Break in April, so when the kids come back from vacation it will be installed and will make it significantly safer for Middle School and High School students. If they stay on target, that's what will happen.

### **Business From the Floor**

Joe Kilian questions if DOT, when they had the meeting with them about Route 5, made a decision on what they prefer. They told Mr. Kapsiak they would get back to them. Supervisor Hoak comments that they told them to make a decision ASAP and they said they needed some more time. But, after the first of the year they would get back to them. Mr. Kapsiak comments they said that they wanted to meet with the Town Advisory Committee for the Project.

Councilwoman Kesner comments that she did talk to one of the representatives from the DOT regarding this topic and they assured her they are working on it and are coming up with something very creative because they heard all the concerns and they want to make it a successful project.

**XXXV.**

**RESOLVED**, that the Town Board adjourn to Executive Session at 9:30 p.m .with Legal and Recreation.

Moved: Hoak

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

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Catherine Rybczynski, Town Clerk

### **Correspondence - January 26, 2004**

1 - To Supervisor Hoak from the Town Clerk's Office, the monthly report for December 2003 with receipts totaling \$37,981.69.

2 - To Supervisor Hoak from the Town Clerk's Office, the Year End Report for 2003 with receipts totaling \$714,552.77.

3 - To the Town Clerk from Association of Towns of the State of New York asking that the material be read at the Town Board Meeting.

4 - To the Town Board from Scranton Volunteer Fire Company, Inc. Enclosing a copy of the law (Service Award Program) for the records and a copy of their new points system.

5 - To Catherine Rybczynski, Town Clerk, from the Lake View Fire District stating that Michael F. Lewis has been re-elected by the residents to a five year term as Fire Commissioner commencing January 1, 2004 and ending December 31, 2008.

6 - To the Town Board from residents of Thurston Avenue concerning drainage problems that they are having and asking that the Town not allow any further construction into their sewer district area.

- 7 - To Hamburg Town Court from Karin Dusza, St. Peter & Paul Parish Outreach, thanking the Court Staff for their generous donation during the Christmas holidays.
- 8 - To Hamburg Town Court from Nancy Gill, Union Presbyterian Food Ministry, thanking them for their generous donation of food for their pantry.
- 9 - To Catherine Rybczynski, Town Clerk, from Daniel George, Hamburg Central School District, requesting the use of six voting machines on May 18, 2004 for the Annual Budget Vote and Board Election.(pre-filed)
- 10 - To the Town Board from Philip Best, Concerned Citizens of Hamburg, recommending that the Town excavate the fill materials off of the wetland area placing materials back onto the Town property in accordance to the Town's original landfill operating permit. Requesting the Town exercise "option A" of the Town Boards resolution of 11/24/2003.
- 11 - To the Town Board from Stephen Strnad, Scranton-McKinley Taxpayers Association, announcing their officers as stated.
- 12 - To Supervisor Hoak from Office of Real Property Services stating that the Town is eligible for Maintenance Aid in the amount of \$2.00 per parcel. Congratulations to the Assessor for maintaining a system of real property tax administration which meets the highest standards set by the state.
- 13 - To the Town Board from Lake Shore Volunteer Fire Co., Inc. Stating that at their last regular meeting they approved Sean Wall and Justin Hummell for active membership.(pre-filed)
- 14 - To Catherine Rybczynski, Town Clerk, from David Fountaine, Village Administrator, requesting the use of two voting machines on March 16<sup>th</sup> to conduct a General Village Election. (Pre-filed)
- 15 - To the Hamburg Town Board from Big Tree Volunteer Firemen's Co., Inc. Requesting permission to accept Sean Morgan into Active Membership. (Pre-filed)
- 16 - To the Town Board from the Town of Colden, a resolution passed on November 13, 2003 going on record in honoring Indian Treaties with the United States.
- 17 - To the Town Board from Newton Abbott Fire Company, Inc. Stating that at their last monthly meeting they accepted Kenneth Sikora as an Active Member. (Pre-filed)